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October 25, 2006
Via Electronic Filing

SouthEast Telephone, Inc.
106 Scott Avenue
Pikeville, Kentucky 41501

Ms. Marlene H. Dortch, FCC Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Attention: Office of the Secretary

Dear Ms. Dortch:

Attached for electronic filing are SouthEast Telephone's comments on the Missoula plan (CC Docket No. 01-92).

Please address any inquiries or further correspondence regarding this filing to my attention at Technologies Management, Inc., P.O. Drawer 200, Winter Park, Florida 32790-0200, Telephone: (407) 740-3006 or Facsimile: (407) 740-0613.

Sincerely,

Carey Roesel
Consultant to SouthEast Telephone, Inc.

CR/gs
Enclosure

cc: Liz Thacker, SouthEast
file: SouthEast – FCC Comments Missoula Plan
tms: FCCx0601

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	WC Docket No. 01-92
	)	

COMMENTS OF SOUTHEAST TELEPHONE, INC.

SOUTHEAST TELEPHONE, INC., respectfully submits these comments in response to the Federal Communications Commission's ("FCC or Commission") *Public Notice* released on July 25, 2006 (DA 06-1510), as modified by the Commission's August 29, 2006 Order in the above-referenced docket. In its *Notice* the Commission seeks comments on the "Missoula Plan," a proposed intercarrier compensation plan filed on July 24, 2006 by the National Association of Regulatory Utility Commissioners' (NARUC's) Task Force on Intercarrier Compensation. For the reasons set forth below, the Missoula Plan should not be adopted. It completely abandons rural CLECs and their customers. It fails to consider the role of Rural CLECs in delivering advanced, cost-effective telecommunications services to rural consumers. At a minimum, the Plan must include CLECs currently qualifying under the FCC's "rural exemption" as Track 3 carriers, and it must account for the impact of the Restructure Mechanism on CLEC revenues and expenses.

I. INTRODUCTION AND BACKGROUND

SouthEast Telephone is a rural CLEC which has operated in Appalachian Kentucky since 1997. SouthEast provides service to more than 40,000 lines, 90% of which are residential. All are in rural areas of the state.

SouthEast is aware of the problems created by the current intercarrier compensation scheme. SouthEast struggles with phantom traffic, as well as other problems associated with intercarrier compensation pricing inconsistencies. The company recognizes and appreciates the Missoula Plan's efforts to address these important issues.

However, while reform in intercarrier compensation is certainly warranted, such changes should be approached very carefully. Otherwise, competition in rural areas will be left behind.

Rural consumers deserve a cautious, measured plan which will invite competition and investment in rural areas. By assuring that all areas have a reasonable profit opportunity,competitors will be encouraged to provide services to rural markets as well as to their more populated counterparts. Without a measured plan for change, rural America may be left behind and left out.

II. ADOPTION OF THE MISSOULA PLAN WILL NOT ELIMINATE THE NEED FOR THE CLEC SWITCHED ACCESS RURAL EXEMPTION

In past decisions the FCC addressed and affirmed the role of CLECs in meeting the needs of rural consumers. In the Seventh Report and Order on access charge reform[1] the Commission established the CLEC switched access "rural exemption" as a way of furthering CLECs' rural efforts:

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[1] *In the Matter of Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, Seventh Report And Order And Further Notice Of Proposed Rulemaking, FCC 01-146, CC Docket No. 96-262.

We conclude that the record supports the creation of a rural exemption to permit rural CLECs competing with non-rural ILECs to charge access rates above those charged by the competing ILEC.[2]

The rationale for the exemption is clearly identified in the Order:

First, we note that such a device is consistent with the Commission's obligations, under section 254(d)(3) of the Act and section 706 of the 1996 Act, to encourage the deployment to rural areas of the infrastructure necessary to support advanced telecommunications services and of the services themselves. The record indicates that CLECs often are more likely to deploy in rural areas the new facilities capable of supporting advanced calling features and advanced telecommunications services than are non-rural ILECs, which are more likely first to deploy such facilities in their more concentrated, urban markets. Given the role that CLECs appear likely to play in bringing the benefits of new technologies to rural areas, we are reluctant to limit unnecessarily their spread by restricting them to the access rates of non-rural ILECs.[3]

The Order further defends the exemption based on the above-average costs faced by rural CLECs:

We are persuaded by the CLEC comments indicating that they experience much higher costs, particularly loop costs, when serving a rural area with a diffuse customer base than they do when serving a more concentrated urban or suburban area. The CLECs argue that, lacking the lower-cost urban operations that non-rural ILECs can use to subsidize their rural operations, the CLECs should be permitted to charge more for access service, as do the small rural incumbents that charge the National Exchange Carrier Association (NECA) schedule rates.[4]

Three years later, the FCC again affirmed the purpose, and limits, of the rural exemption:

The rural exemption was intended to prevent rural competitive LECs with high loop costs from being tied to a competing incumbent's access rate that reflects the incumbent's ability to subsidize high-cost, rural operations with more concentrated, low-cost urban operations. The Commission also sought, however,

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[2] Id, at ¶ 65.

[3] Id, at ¶ 65.

[4] Id, at ¶ 66.

to keep the exemption as narrow as possible to minimize the strain it placed on the interexchange market.[5]

SouthEast is squarely in this position as it competes with the large ILECs in the State of Kentucky. SouthEast delivers advanced telecommunications services to underserved rural areas at competitive rates in spite of its much higher than ILEC average loop costs.

For example, when SouthEast implemented its DSL offering, it specifically targeted, and successfully served, locations in BellSouth territory that were not on BellSouth's near-term DSL deployment schedule. BellSouth responded to SouthEast's DSL deployment by accelerating DSL implementation in these previously underserved areas. The primary beneficiaries of this competitive exchange were rural consumers in Kentucky.

In terms of costs to serve rural areas, a quick review of BellSouth's UNE and retail rates illustrates the problem faced by rural CLECs. BellSouth's cost-based UNE loop rates in Kentucky are $9.64 (Zone 1), $14.37 (Zone 2), and $30.59 (Zone 3), while its retail rates for residential local exchange service range from $15.20 (Rate Group 1) to $18.40 (Rate Group 5). This cost/price relationship presents an insurmountable obstacle to meaningful residential competition in Zone 3 areas in the absence of additional sources of revenue, such as higher access rates. More than 60% of SouthEast's customers are in UNE Zone 3, and none of SouthEast's customers reside in urbanized areas (a requirement

[5] *In the Matter Reform of Access Charges Imposed by Competitive Local Exchange Carriers*, Eighth Report And Order And Fifth Order On Reconsideration, FCC 04-110, CC Docket No. 96-262, released May 18, 2004 at ¶ 35.

for all rural exemption CLECs). It is the rural exemption, along with similar treatment at the state level, which creates the opportunity for SouthEast to serve these customers.

Adoption of the Missoula Plan will apparently torpedo the CLEC switched access rural exemption and yet do nothing to alleviate these pricing obstacles. Indeed, it will create new obstacles by increasing the costs of rural CLECs for interconnection and transport. By forcing rural CLEC s to move to ILEC-designated "edges" to interconnect, the Plan may significantly increase the interconnection costs of rural CLECs and make it even harder to compete in rural areas. This problem is further exacerbated by the portions of the plan relating to rural transport which require Track 1 carriers such as rural CLECs to bear financial responsibility for transport of the rural ILEC's terminating and originating traffic between its Edge and the meet point.

The Missoula Plan would therefore drastically disrupt the economic underpinnings of competitive rural telecommunications. Like any plan designed to restructure and unify intercarrier compensation, the Missoula Plan is necessarily disruptive. But what the Missoula Plan proposes to do to the rural exemption CLEC is catastrophic. ILECs (regardless of Track) are effectively made whole under the Plan. Non-rural CLECs are not offered the same degree of revenue preservation as their ILEC counterparts, but at least many are in areas that have a workable relationship between retail rates and underlying costs. Rural exemption CLECs, however, with their heavy reliance on both intrastate and interstate access charges, combined with no meaningful commitment in the Plan for offsetting the above-average access revenue losses, may be forced to exit rural markets entirely.

III. RURAL EXEMPTION CLECS SHOULD BE CONSIDERED TRACK 3 CARRIERS AND SHOULD BE ELIGIBLE FOR REIMBURSEMENT THROUGH THE RESTRUCTURE MECHANISM

By establishing three "Tracks" the Plan initially seems to go to great lengths to support the FCC's current policy objectives when it comes to rural consumers:

> *The Missoula Plan proposes comprehensive solutions for some of the hardest intercarrier compensation problems facing the industry while providing a stable cost-recovery mechanism that does not unduly burden rural consumers.*

and,

> *The Plan will aid rural customers by ensuring long-term, predictable revenues to build and maintain rural networks to provide basic and advanced services.*[6]

Curiously, however, the Plan completely abandons rural CLECs and the role they play in ensuring -- in those areas fortunate enough to have local exchange competition -- that rural consumers have access to advanced, cost-effective telecommunications services. Instead, all CLECs are treated as Track 1 carriers even if they operate in rural areas and qualify under the CLEC switched access rural exemption. This oversight is especially glaring in light of the parallel policy objectives of the rural exemption and Track 3 classification.

Including rural exemption CLECs under Track 3 would not greatly expand the number of Track 3 access lines. The rural exemption is intentionally very narrow in its application -- it was initially expected that it would only apply to about 100,000 CLEC access lines. Including rural exemption CLECs under Track 3 would amount to less than a 3% increase in the number of Track 3 lines even if the number of rural exemption lines

[6] Missoula Plan at Page 3.

is twice what was originally anticipated. So while the rural exemption is extremely important to the customers served by qualifying CLECs, the overall impact on other components of the Plan of including these companies is minimal.

The Plan creates a $1.5 billion Restructuring Mechanism whereby ILECs are able to recover any reduction in intercarrier revenues under the Plan (to the extent that such revenues are not recovered through increased subscriber line charges or restructured charges). Although the Plan claims that the $1.5 billion estimated cost of the restructure mechanism includes an estimate for distribution to CLECs, the plan completely fails to provide the method for calculating the CLEC's recovery under the Restructuring Mechanism. Instead, it merely states in passing that the "restructure mechanism dollars will be available to other carriers in circumstances to be determined in the future." In stark contrast, the Plan fully describes how ILECs will recover their lost revenue through the Restructure Mechanism. The Commission cannot allow this omission to stand, especially since CLECs will almost certainly by required to help fund the Restructuring Mechanism. If the Commission adopts the Restructure Mechanism, it must ensure that the funding is available to CLECs, especially rural CLECs, on equal terms with the ILECs. Ultimately, of course, the cost of the Restructure Mechanism will be born by consumers.

IV. CONCLUSION

The Missoula Plan should not be adopted. It fails to consider the role of Rural CLECs in delivering advanced, cost-effective telecommunications services to rural consumers. At a minimum, the Plan must include CLECs currently qualifying under the

FCC's CLEC switched access "rural exemption" as Track 3 carriers, and it must fully account for the impact of the Restructure Mechanism on CLEC revenues and expenses.

Respectfully submitted:

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Date: October 25, 2006